



Ninety-Eighth Legislature - First Session - 2003
Committee Statement
LB 265

Hearing Date: February 6, 2003

Committee On: Judiciary

Introducer(s): (Tyson, Aguilar, Baker, Byars, Combs, Cudaback, Cunningham, Engel, Erdman, Hudkins, Janssen, Jensen, Jones, McDonald, Mossey, Dw. Pedersen, D. Pederson, Quandahl, Redfield, Schrock, Smith, Stuhr, Synowiecki, Vrtiska, Wehrbein)

Title: Adopt the Concealed Handgun Permit Act

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

6	Yes	Senator Brashear, Foley, Mossey, Pedersen, Quandahl, Tyson
2	No	Senators Chambers, Mines
	Present, not voting	
	Absent	

Proponents:

Senator Gene Tyson
John Pershing
Terry Copple
Ronald Grapes
Dale Rabideau
Leah Rabideau
Michael Riddle
Charles Whitlock
David Powers

Representing:

Introducer
Self
Nebraska Shooting Sports Association
Nebraska Shooting Sports Association
Self
Self
Self
Self
self

Opponents:

George Remmenga
Larry Ball
Kent Roupf
Bill Thurman
Craig Groat
Sue Ellen Wall

Representing:

Self
Self
Chief of Police Association
Self
Self
Nebraskans for Peace

Neutral:

James Cavanaugh

Representing:

Nebraska Fraternal Order of Police

Summary of purpose and/or changes:

Legislative Bill 265 adopts the Concealed Handgun Permit Act (Act), authorizing individuals to obtain a permit to carry a concealed handgun on or about the person without violating section 28-1202, which prohibits the carrying of concealed weapons.

An applicant shall apply for a permit at the county sheriff's office. The Superintendent of Law Enforcement and Public Safety shall prescribe the application.

The application shall include:

- The applicant's name, social security number, address, date of birth, and signature;
- A statement that the applicant is in compliance with the requirements pertaining to disqualifications for obtaining a permit, and;
- A statement that the applicant's information is true and correct.

The applicant shall also:

- Present a current Nebraska driver's license, state identification card, or military identification card and 2 sets of his or her fingerprints;
- Be 21 years old or older;
- Be eligible to possess a firearm pursuant to federal law; and
- Have the required eyesight to qualify for a Class O operator's license.

Any applicant giving false information or offering false evidence of identity when applying for such permit shall be guilty of a Class IV felony.

The county sheriff where the applicant resides shall issue the permit to carry a concealed handgun within 5 business days after the date of the application.

The permit shall be issued if the applicant:

- Complied with the application process;
- Has never pled guilty to, nolo contendere to, or been convicted of a felony or crime of violence;
- Is not habitually in a drugged or intoxicated condition;
- Has no history of violence;
- Has not been found within the last 10 years to be a mentally ill and dangerous person and is not currently found by a court to be mentally incompetent;
- Has been a resident of the county where the application is filed for 180 days;
- Has had no law violations relating to firearms, unlawful use of a weapon, or controlled substances in the 2 years preceding the date of application;
- Is currently not on parole, probation, house arrest, or work release; and
- Is a citizen of the United States.

A criminal history check shall be conducted by the Nebraska State Patrol. The permitholder has an ongoing duty to be in compliance with permit requirements. If a permitholder is not in compliance, the permit shall be returned to any sheriff.

A permit to carry a concealed handgun is valid for 4 years after the date of issuance, and the fee is \$60. \$15 shall be allocated to the state Treasurer for credit to the General Fund, and \$45 to the general fund of the county issuing the permit.

A permitholder shall not carry a concealed handgun into any:

- Establishment licensed under the Nebraska Liquor Control Act that receives over ½ of its total income from the sale of malt or alcoholic beverages; or
- Place where weapons are prohibited.

No sheriff issuing a permit under the Act shall be civilly liable.

The county attorney's office of the county in which the permitholder resides has the duty to prosecute cases for revocation. In the alternative, the Attorney General's office shall do so. Upon a showing by a preponderance of the evidence that the requirements are not being met, the permit shall be revoked. A person whose permit is revoked may be fined up to \$1000 plus the costs of prosecution. The fine collected shall be remitted to the state Treasurer for credit to the permanent school fund.

The county sheriff issuing a permit to carry a concealed handgun shall notify the Department of Motor Vehicles, and provide a copy of the applicant's application.

LB 265 also provides exceptions to committing the offense of carrying a concealed weapon. The crime of **carrying a concealed weapon shall not apply to:**

- A holder of a valid permit issued under the Act;
- A person on his or her own land or premises who is carrying any concealed weapon or weapons; or
- A person who lawfully carries a weapon or weapons in a trunk or closed compartment of a car, or in a closed container too large to be concealed on or about the person. If these are firearms, they shall be unloaded.

LB 265 requires a special designation on the permitholder's motor vehicle operator's license or state identification.

Finally, LB 265 contains an emergency clause.

Explanation of amendments, if any:

The committee amendment replaces the bill and adds several provisions to the original form.

To apply for a permit, the applicant must have completed a handgun training and safety course within three years of the application. The Nebraska State Patrol shall publish minimum safety and training requirements for the courses and instructors.

The committee amendment provides that a concealed handgun permit is valid for 5 years with a fee of \$100. A renewal procedure is provided. The renewal fee is \$50. One-half of any fee shall be remitted to the county where the application is made, and one-half shall be credited to the General Fund after a fee for the national criminal history record information check is credited to the Nebraska State Patrol.

Instead of a special designation on the permitholder's motor vehicle operator's license, the committee amendment requires a separate permit that must be carried any time the permitholder carries a concealed handgun. Violating such is a Class III misdemeanor for the first offense and a Class I misdemeanor for the second offense. Whenever a permitholder carrying a concealed handgun is contacted by a peace officer or emergency services personnel, the peace officer or emergency services personnel shall be immediately informed that the permitholder is carrying a concealed handgun. The peace officer or emergency services personnel may secure the handgun. Not allowing the handgun to be secured is a Class I misdemeanor.

The amendment specifies places where a permitholder may not carry a concealed handgun. Places open to the public not wishing to allow concealed handguns must post conspicuous notice that carrying a concealed handgun is prohibited. A permitholder shall not carry a concealed handgun while consuming alcohol or illegal drug or while such is in his or her blood, breath, or urine. When the discharge of a handgun by a permitholder results in the injury to a person or damage to property, a report shall be made to the Nebraska State Patrol. A permitholder violating this section is guilty of a Class III misdemeanor for the first offense and a Class I misdemeanor for the second offense.

The Nebraska State Patrol shall maintain a record of all applicants and permitholders under the Act. The Department of Motor Vehicles shall be notified that a concealed handgun permit has been issued, returned, or revoked. The person's record shall show the status of the person's permit to carry a concealed handgun.

Under the amendment, the crime of carrying a concealed weapon shall not apply to a holder of a valid permit issued under the Act.

The emergency clause is stricken and the amendment provides for an operative date of January 1, 2004.

A severability clause is added.

Senator Kermit A. Brashear, Chairperson